

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

27 NOVEMBER 2013

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION - DRAFT

Corporate Management and Finance – Lead Cabinet Member – Councillor Harrington

SOCIAL VALUE (PUBLIC SERVICES) ACT 2012

1. Summary

The Social Value (Public Services) Act 2012 came into effect for all English and Welsh public bodies on 31st January 2013 and requires local authorities to have regard to economic, social and environmental well-being when tendering for public services contracts. The scope of the act is restricted to 'services contracts' above the OJEU contract value threshold (currently set at £173,934) although the principles can equally be applied to 'supply' contracts, 'works' contracts and below threshold 'services contracts'.

The purpose of this report is to detail progress to date with implementation and to seek approval of a Social Value Policy and supporting framework.

2. Recommendations

1. To approve the Social Value Policy and supporting framework.
2. To approve the changes to Contract procedure Rules.
3. To note the potential opportunities for local business and the third sector.

3. Reasons for the Recommendations/Decision(s)

To implement a new Social Value Policy in order to maximise the benefits to be derived by including social value within the procurement process and subsequent contracts.

To make associated changes to Contract Procedure Rules in order to implement the requirements of the act and to make minor changes to improve clarity, governance and to address changes in legislation.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so

significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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SUMMARY

The Social Value (Public Services) Act 2012 came into effect for all English and Welsh public bodies on 31st January 2013 and requires local authorities to have regard to economic, social and environmental well-being when tendering for public services contracts. The scope of the act is restricted to 'services contracts' above the OJEU contract value threshold (currently set at £173,934) although the principles can equally be applied to 'supply' contracts, 'works' contracts and below threshold 'services contracts'.

The purpose of this report is to detail progress to date with implementation and to seek approval of a Social Value Policy and supporting framework and associated changes to Contract Procedure Rules.

RECOMMENDATIONS

1. To approve the Social Value Policy and supporting framework.
2. To approve the changes to Contract procedure Rules.
3. To note the potential opportunities for local business and the third sector.

DETAIL

1. Background
- 1.2 The Public Services (Social Value) Act 2012 originated mainly as a response to the negative publicity caused when Bombardier Trains failed in their bid for the contract to manufacture trains for the Thameslink line and the contract was awarded to the German company Seimens. The act has the aim of encouraging all public bodies to consider 'social value' prior to commencing a tender process. It is important to note the act applies prior to the tender process: this reflects the government's acceptance that it does not have the power to vary EU Public Procurement Directives (as transposed as the Public Contracts Regs 2006) that regulate the actual tender process.
2. What is Social Value?
 - 2.1 There are a number of definitions of social value and the related more general subject of sustainable procurement. For the purpose of this report the definition of social value as created by The Sustainable Procurement Task Force and widely used in England, Wales and Scotland is used. They define it as, 'a process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life

basis in terms of generating benefits to society and the economy, whilst minimising damage to the environment’.

3. What types of things are considered as Social Value?

3.1 The types of social value that can be derived from procurement can be quite widespread but should be influenced by the Council’s own policies (strategic fit) and the conditions and circumstances within the locality, although not necessarily restricted by this e.g. requirements relating to fair trade may affect global trade.

3.2 The following are examples of some areas of potential social value that could be considered when contracting. The list is not exhaustive.

- Promoting social inclusion by targeting contract opportunities at local voluntary groups, social enterprises and other civil society organisations and encouraging community involvement and social inclusion.
- Supporting SMEs and start-ups by creating supply chain opportunities.
- Encouraging corporate social responsibility amongst suppliers and contractors.
- Fulfilling equality duties and improving market diversity.
- Promoting skills and training opportunities for under-represented or protected groups such as NEETs.
- Creating employment opportunities locally or for particular community groups.
- Creating career enhancement opportunities such as work placements and internships.
- Encouraging innovative approaches to design that may help particular groups.
- Encouraging compliance with national and international social and labour law.
- Promoting decent working conditions and environment.
- Supporting fair and ethical trading.
- Contributing to health improvement campaigns.
- Increasing availability of environmentally beneficial goods and services.
- Consider the impact and potential of capital projects in increasing social value e.g. accessibility.
- Protecting the environment through participating in campaigns such as improving your carbon footprint, recycling or energy efficiency.
- Improving payment terms in supply chains.

3.3 Many of the above activities will create commercial benefits as well as social gain for all stakeholders including the Council and its suppliers, but it is important to recognise there is a balance needed to prevent making addressing social value so onerous that SMEs or VCSE organisations are driven away because of the impact on their indirect costs.

4.0 The Requirements of the Act

4.1 The act requires the public body to have regard to economic, social and environmental well-being in connection with public service contracts valued over the OJEU contract value threshold (currently £174k).

4.2 The act requires the public body to:

- Consider how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area.
- How in conducting the process of procurement, it might act with a view to securing that improvement. In trying to secure that improvement it does so by only considering matters that are relevant to what is proposed in a proportionate manner.
- Consider whether to undertake market consultation with regard to the improvements to be considered.

4.3 Although supply contracts, works contracts and contracts under the OJEU contract value threshold are not included within the scope of the legislation it is possible to include social value in all contracts to some degree.

4.4 Although the Act does not prescribe that considerations made under it should be recorded, as a matter of good practice, Councils should keep a formal record to show that they have been made, as well as the rationale for any subsequent decisions.

5.0 Progress to date

5.1 Prior to detailing what has already been done since the enactment and further work planned to develop the approach to the act, it is worth noting that the principles of the act have, for a number of years already been adopted by the Council with some success. For example, requirements for apprentices, local recruitment and training have been used successfully in some large works contracts; packaging of contracts to make more attractive to local SMEs and VCSE organisations where appropriate; pre-tender market engagement/ consultation; tender evaluation criteria that test environmental performance etc.

5.2 Since the act came into effect in January, Corporate Procurement have circulated a briefing to key officers to raise awareness and in addition, have amended the procurement decision record proformas to allow officers to record how they have addressed the act for any particular tender.

5.3 Corporate Procurement have consulted with services and developed Procurement Plans which list planned procurement activity for the next year and these have started to be assessed to identify those contracts that are within scope of the act and those that although not in scope, would be appropriate to include social value measures. The plans identify the types of social value measures that could be considered.

5.4 The Federation of Small Businesses (FSB) and Catalyst have been consulted about the policy and approach and in general feedback has been very positive. The FSB were very supportive and were particularly pleased to see the policy going beyond the scope of the statutory duty (i.e. works, supply and below threshold services contracts) and the increase in quotation thresholds. Catalyst were also supportive and were keen to assist the Council implement the policy.

6.0 Further Action

6.1 Social Value Policy

6.1.1 A Social Value Policy will create visibility of how the act is implemented and provide the strategic intent behind future actions. A draft policy is attached at appendix A for consideration and approval. The policy extends beyond the scope of the act and includes supply and works contracts as well as service contracts.

6.2 Social Value Framework

Although parts of the framework are already in place, further work is necessary to develop processes and resources to ensure a consistent approach and one that makes a real difference. These include the following areas.

6.2.1 Procurement Plans

Procurement plans are now established detailing procurement activity for the next rolling year. The plans are being adapted to firstly; identify which tenders the act will

definitely apply to; secondly which tenders the act does not apply to, but social value could be attached, and thirdly the nature of how social, economic and environmental wellbeing could be addressed within each contract.

6.2.2 Market Engagement

Pre-tender market engagement has become normal practice in recent years, however it still generally focuses on briefing the market about a contract opportunity rather than engaging the market to understand optimum ways to structure tenders and contracts and how best to approach the market. Further work is needed to refine the approach and ensure consistent application.

6.2.3 OJEU Contract Notices

Tenders subject to the full rules of the EU Procurement Directives, will require a specific clause inserting into the OJEU contract notice to ensure social value can be considered during pre-qualification and tender evaluation. An example is shown below:

'It is intended that this contract helps act as a catalyst for [broadly define the goal of the social benefits e.g. regeneration within the borough of Stockton on Tees]. Accordingly, the contractor will be required to actively participate in achieving these objectives and contract performance conditions may relate to social and environmental considerations. The contractor's technical capability to meet these requirements may also be assessed at the pre-qualification stage and criteria which assess the manner in which the contractor will meet these requirements may also be included within the contract award criteria. Further details will be provided in the tender documents.'

6.2.4 Pre-Qualification and Tender Evaluation

For tenders where social value is relevant to the subject matter of the contract and assuming the OJEU contract notice includes the above clause (where applicable), specific questions can be included at both pre-qualification and tender evaluation.

Firstly, at pre-qualification, questions can be asked to determine a bidders past experience in delivering social benefits. For example:

Targeted Recruitment and Training

It will be a requirement when carrying out this contract that the contractor provides support for targeted recruitment and training. Please provide [insert number] of examples of your approach to and previous experience of supporting targeted recruitment and training initiatives when carrying out contracts similar to this contract.

Community Engagement

As this contract is to be delivered in an area of high residential density, it is important that the contractor engages with the local community as it seeks to successfully deliver the contract. Please

provide [insert number] of examples of previous projects where you have engaged and supported the local community during the successful delivery of a similar contracts.

Secondly, tender evaluation criteria can be constructed to test how bidders will deliver social value during the contract, but care is needed to ensure the criteria have some relationship to the subject matter of the contract. It is important that criteria can demonstrate that some economic advantage which relates to the contract has accrued. Some examples of evaluation criteria can be seen below:

Bidders are required to demonstrate how they would construct and operate their supply chain(s) in order to maximise opportunities to local SMEs.

Bidders are required to state in Appendix # the number of small business (SMEs) and Social Enterprises (SEs) that he will employ on this contract.

Bidders are required to state how many long term unemployed will be employed on this contract.

What measures will you put in place to minimise the impact on climate change/ reduce carbon emissions.

Bidders are required to produce a waste minimisation plan including details of how they will work with supply chains and their suppliers to reduce waste.

These are just a few typical high level evaluation criteria. Further work is necessary to develop them into a coherent evaluation model that can be adapted depending on the particular contract.

6.2.5 Social Value Contract Clauses

Contract clauses are not tender evaluation criteria so cannot influence who is chosen as the successful bidder. While bidders must accept the contractual conditions in order to submit a valid bid, they are only required to implement the terms when performing the contract, not before or during the tender process.

Contractual clauses can be used where social value cannot be linked to the subject matter of the contract. These could include:

Placing an obligation on the contractor to provide the Council or its partners with job opportunities.

Placing an obligation on the contractor to pay sub-contractors within 30 days.

The list of potential clauses is lengthy, but care is required to not create obligations that are too onerous and result in additional cost. Further work is required to create a library of clauses and agree under which type of contract they should be applied.

6.2.6 Contract Management

The implementation of social value can only be as successful as the monitoring and review mechanisms contained in the final contract. Effective contract management is vital. To ensure that social value is delivered, it must be possible to measure and quantify the outcome being pursued. Robust monitoring against defined key performance indicators (KPIs) must be developed.

6.2.7 Training

In order to deliver social value a major training programme is required to train all officers involved in procurement activity. At last count, this amounted to over 300 people involved to a greater or lesser extent. An external trainer has been commissioned to deliver the training and focus the training in tiers with those officers most involved with any procurement activity targeted first.

7.0 Getting the balance right

7.1 Improving the economic, social and environmental wellbeing of the area by considering social value in the procurement process and subsequent contracts is a very positive move to creating sustainable communities. However, the Council is still under the duty of best value and must be able to demonstrate value for money in the contracts entered into. In addition, the Public Contract Regulations 2006 place obligations on public bodies to undertake procurement in such a way as to prevent discrimination in the single market. These requirements can sometimes be contradictory in nature and are often difficult to balance when contracting. The Council's financial position often exacerbates the problem. But with care and proportionality, social value can be complimentary to achieving value for money and compliance with public procurement legislation.

8.0 Changes to Contract Procedure Rules

8.1 The requirements of the act need to be reflected in the Council's Contract Procedure Rules (CPR) and a review has been undertaken and changes made. These are highlighted in Appendix B.

8.2 In addition to including these changes, further consideration has been given to determine whether any other changes to CPR could be made that would deliver improvements to the economic, social and environmental well-being of the area.

8.3 The current contract value threshold for openly advertising tenders to the wider market is £75k for supplies and services and £100k for works. By increasing these thresholds to £150k would increase the number of contracts arranged through selective quotes rather than open tenders. Changing the rules for quotations including a requirement to select 'local' companies as well as other companies would increase the chance of contracts being awarded to local companies. Suggested changes to CPR are highlighted in Appendix B.

8.4 Whilst reviewing CPR, the opportunity has also been taken to make some additional minor changes to aid understanding, improve clarity and to address changes in legislation. These changes are highlighted in Appendix C.

FINANCIAL IMPLICATIONS

There are no direct financial implications other than potential to reduce the cost of procuring and commissioning goods, services and works.

LEGAL IMPLICATIONS

Procurement is subject to the UK and EU Procurement Rules including the Public Contracts Regulations 2006 (as amended) and a number of related pieces of legislation including TUPE, health and safety, equality and contract law etc.

RISK ASSESSMENT

The implementation of the requirements of this act are categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

Economic Regeneration and Transport

The Council is one of the largest spending organisations in the borough and the more money that is spent locally, the greater the positive impact this will have on the local economy, particularly for small and medium sized businesses. However, care must be taken to avoid contravening the Public Contracts Regulations 2006 which are designed to prevent discrimination in the market place.

Safer Communities

The Council is one of the largest spending organisations in the borough and has a role to play in addressing social well-being and cohesion across the borough. Social benefits in procurement can include the creation of employment and training opportunities to the elimination of child labour in the supply chain.

Children and Young People

The Council is one of the largest spending organisations in the borough and has a role to play in addressing social and economic well-being across the borough. Social benefits in procurement can include the creation of employment and training opportunities for NEETs or looked after young people.

Healthier Communities and Adults

The Council is one of the largest spending organisations in the borough and has a role to play in addressing social well-being and health across the borough. Social benefits in procurement can include the promotion of health campaigns through the supply chain.

Environment and Housing

The Council is committed to ensuring that services are delivered in a way that protects the quality of the environment. The Council recognizes that procurement can be integral in delivering more sustainable outcomes for the borough. To achieve this it is necessary to ensure that environmental and broader sustainability considerations are taken into account throughout the procurement process.

EQUALITIES IMPACT ASSESSMENT

N/A

CONSULTATION INCLUDING WARD/COUNCILLORS

- Cabinet Member for Corporate Management and Finance
- Federation of Small Businesses
- Catalyst

Name of Contact Officer: Martin Skipsey

Post Title: Procurement, Risk and Insurance Manager

Telephone No. 01642 526364

Email Address: martin.skipsey@stockton.gov.uk

Education related? No

Background Papers

Ward(s) and Ward Councillors:

Property

Social Value Policy

1.0 BACKGROUND

- 1.1 On the 31st January 2013 the Public Services (Social Value) Act 2012 became fully operational. The **Social Value Policy** described here, which will be reviewed in one year's time, sets out the key principles and actions whereby the Council endeavours to embed practical and effective **commissioning for social value** in every aspect of its procurement, commencing (as the legislation requires) at the pre-procurement stage.

2.0 SCOPE

- 2.1 While the Act only requires relevant authorities to consider social value in service contracts (and goods or works contracts where there is a service element) above a prescribed financial threshold, the Council's implementation of the duties in the Act will be as wide as practicable and the Council will seek to secure social value outcomes from its procurement activities:

- (i) with all suppliers and contractors,
- (ii) for services, works and goods, and
- (iii) for all contract values.

- 2.2 The Council will also consider other delivery models, including social enterprise and mutual models, where such arrangements may deliver greater social value.

3.0 WHAT WE MEAN BY SOCIAL VALUE

- 3.1 The Act states:

"If the relevant authority proposes to procure or make arrangements for procuring the provision of services, or the provision of services together with the purchase or hire of goods or the carrying out of works.... The authority must consider how what is proposed to be procured might improve the **economic, social and environmental well-being** of the relevant area and, in conducting the process of procurement how it might act with a view to securing that improvement". It must also "consider whether to undertake any consultations as to matters to be considered" under that process.

- 3.2 For the purposes of this policy we refer to this **improvement of wellbeing** as **social value**. In order to implement this we seek measurable, verifiable **social value outcomes** that:

- (i) are relevant to the purpose of the services, goods or works,
- (ii) can legitimately be included in contract specifications and
- (iii) contribute to achieving the Council's priorities (as described in the Council Plan 2012 to 2015 and Council budget).

- 3.3 Priorities of Social Value policies include:

- (i) Local Employment

Create employment and skills and training opportunities for local people especially in target areas.

- (ii) Supporting Local Businesses

Take account of the social and economic impacts of buying locally during procurement and contracting, particularly through local supply chains, thereby reducing unemployment and raising the skill level of the local workforce.

(iii) Voluntary, Community and Social Enterprise Sector Development

Promoting social inclusion by targeting contract opportunities at voluntary and community groups, social enterprises, other civil society organisations and encouraging community involvement.

(iv) Green and Sustainable

Commit to protecting the environment, minimising waste and energy consumption and using other resources efficiently. These commitments will also apply to their supply chain.

(v) Ethical Procurement

Encouraging corporate social responsibility amongst suppliers and contractors.

(vii) Public Health

Contributing to health improvement campaigns.

3.4 However this list is not exhaustive and each case must be considered on its merits.

4.0 THE POLICY CONTEXT

4.1 The strategic context for social value outcomes derives from the Council Plan:

“Our ambition is to create a Borough that is more confident, more vibrant and more successful than ever before. A place where people prosper and grow, where they feel happy, safe and healthy. A place where people can see that our drive, our integrity and our imagination have delivered genuine improvement and exceptional value for money. A place that every single one of us is proud of. This is our vision”.

We're on with it.

BIG PLANS FOR OUR PLACES AND OPEN SPACES
BIG PLANS FOR AN OUTSTANDING BOROUGH
BIG PLANS FOR THE CARE WE PROVIDE
BIG PLANS FOR KEEPING OUR COMMUNITY SAFE
BIG PLANS FOR THE HEALTH OF OUR PEOPLE
BIG PLANS FOR THE YOUNG PEOPLE OF OUR BOROUGH
BIG PLANS FOR HELPING OUR COMMUNITIES PROSPER
BIG PLANS FOR GREAT EXPERIENCES

5.0 IMPLEMENTATION

5.1 The Council will embed a clear and unambiguous message about our intention to secure social value through our procurement every time we communicate with the marketplace.

5.2 Procurement plans will be used to identify potential contracts where social value benefits will be applied.

5.3 Prior to the commencement of each and every procurement exercise, service specifications and/or existing service designs will be interrogated to examine:

a) Why the service/ goods/ works is being procured – is it still relevant and what are we trying to achieve?

- b) Undertake service-user, community or marketplace consultation or research to redefine or confirm needs and create opportunities for delivering social value?
- c) The additional social value outcomes we should be seeking to derive from the procurement.

5.4 Upon commencement of each and every procurement exercise, the Council will:

- a) Where appropriate, ask bidders to detail and demonstrate the social value outcomes and measures that they can deliver when providing the service/ goods/ works. Where appropriate, include an appropriate weighting in the tender evaluation model to assess the social value offer submitted by bidders.
- b) Where appropriate, include social benefit contract clauses in the contract terms and conditions and highlight these to all bidders.

5.5 Upon completion of each and every procurement exercise, the Council will:

- a) Establish and define key performance indicators (KPIs) for measuring social benefits
- b) Establish recording and monitoring systems with suppliers and contractors to ensure social benefits are realised.

6.0 REPORTING ON SOCIAL VALUE

6.1 The Council will:

- a) Report on the social value outcomes achieved through its procurement activities annually, ensuring that this report helps all stakeholders understand the Council's purposes and achievements in seeking social value. Suitable KPIs for reporting will be developed and tested (e.g. the proportion of contracts that have social value outcomes included).
- b) Work with partners, to develop practical and proportionate methods to enable suppliers and contractors to evidence the social value outcomes they have achieved and to ensure that these methods are cost-effective for both suppliers and contractors and the Council as purchaser.

Changes to Contract Procedure Rules related to the Social Value (Public Services) Act 2012

1. The following section has been added to **Section 9.1 Steps Prior to Advertising**
 - e) *consider how what is to be procured may improve social, environmental and economic well being of the relevant area, how they might secure any such improvement and to consider the need to consult accordance with the Public Services (Social Value) Act 2012*
2. The following has been updated in **Section 11. Choice of Procedure, Thresholds and Advertising Requirements** to increase the tender contract value threshold from £75,000 for supplies and services contracts and £100,000 for works contracts to £150,000 for all.

Total Value of Contract	Type of Procurement	Procedure	Minimum Advertising Requirement
£6,000 - £149,999	Supplies or Services	Quotation or Call-Off from an existing Framework Agreement let by the Council or other third party	Consider advertising requirements to maximise competition if necessary None when using a framework
£6,000 - £149,999	Works		
£150,000 – EU Threshold for supplies and Part A services £150,000 + for Part B services	Supplies or services	Invitation to Tender by: The Open Procedure, The Restricted Procedure, Competitive Dialogue Procedure or Call-Off from an existing Framework Agreement let by the Council or other third party	e-procurement system and other appropriate locations to maximise competition None when using a framework
£150,000 – EU Thresholds for works	Works		
Contracts exceeding the EU Threshold for works, supplies and services (Part A)	Works, supplies or services	Invitation to Tender by: The Open Procedure, The Restricted Procedure, The Competitive Dialogue Procedure The Negotiated Procedure or Call-Off from an existing Framework Agreement let by the Council or other third party	OJEU, e-procurement system and other appropriate locations to maximise competition None when using a framework

3. The following section has been updated in **Section 13. Quotation Procedures** to change the mechanism for seeking quotes.
 - 13.3 *If neither section 13.1 nor 13.2 applies, the Chief Officer shall obtain and consider at least four written relevant quotations from suitable third parties, at least two of which shall be obtained from local businesses located within the Tees Valley area and two from businesses randomly selected using the e-quotation system.*

Changes to Contract Procedure Rules to aid understanding, improve clarity and to address changes in legislation

1. The following section has been removed from **Section 4.1 Exempt Contracts** to reduce duplication

d) urgent special educational needs or urgent social care contracts, where in the opinion of the relevant Chief Officer and the Director of Law and Democracy, it is considered necessary to meet the Council's statutory obligations.

This requirement is already covered under Section 5.4 Exceptions to the Contract Procedure Rules

2. The following sections have been removed from **Section 5.4 Exceptions to the Contract Procedure Rules** to reduce duplication.

d) The execution of works or services in which the personal skill or knowledge of the person(s) carrying out the works or services is of primary importance;

i) The work to be executed or the goods to be purchased consist of repairs to or parts for existing machinery or plant

These exceptions are already covered by point (b) of this section.

3. The following section has been added as **Section 7.4. Delegated Authority** to improve clarity

7.4.1 Any procurement carried out on behalf of the Council may only be undertaken by Officers with the appropriate delegated authority to carry out such tasks as set out in the Council's scheme of delegation contained in Part 3 of the Council's Constitution.

7.4.2 Officers with delegated authority to carry out a procurement task may only delegate to other Officers who have suitable experience and seniority. Officers shall be informed by their relevant Chief Officer as to the extent of any delegated authority for each procurement.

4. The following section has been updated in **Section 8. Collaborative or Joint Procurement Arrangements** to improve clarity and governance.

8.3 The Director of Law and Democracy shall approve the governance of any collaborative or joint procurement arrangement prior to it being entered into.

5. The following section has been added to **Section 9.1 Steps Prior to Advertising** to expand upon requirements.

- i) establish written evaluation criteria for the procurement;*
- j) identify whether the Transfer of Undertaking (Protection of Employment) Regulations (TUPE) apply in order that these issues are managed correctly in accordance with the procedures where any employee either of the Council or of a Contractor may be affected by the procurement*

6. The following section has been added in **Section 13.5 Quotation Procedures** to improve governance

13.5 The decision to accept a quote must be recorded on the Council's electronic procurement system.

7. The following sections have been updated in **Section 17. Submission of Tenders, Quotations or Framework Bids** to include requirements to use the e-procurement system.

17.1 Tenders, Quotations or Framework Bids shall comply and be submitted in accordance with the rules and instructions set out in either the respective invitation to tender, invitation to submit a quotation or invitation to bid.

17.2 The Council's principal method of procurement is by electronic means. Requests for Quotations and Invitations to Tender must be transmitted by electronic means using the Council's e-procurement system unless the Corporate Director of Resources agrees (in exceptional circumstances) that postal / hard copy tenders may be used.

17.3 Electronic Tenders or Quotations submitted are kept in a separate secure system under the control of the Director of Law and Democracy which is not opened until the deadline has passed for receipt of Tenders or Quotations.

17.4 Use of the Council's Pro-Contract System ensures

17.4.1 that tenders and quotations will only be available for the submission up to the stated time and date.

17.4.2 the date and time of each Tender or Quotation received will be fully auditable and automatically recorded.

17.5 Where in exceptional circumstances tenders are submitted as postal / hard copy, the tender documents must be submitted in a plain sealed envelope which shall bear the word "tender" followed by the subject to which it relates and addressed to the Director of Law and Democracy, but shall not bear any name or mark indicating the sender. Such envelopes shall remain in the secure

custody of the Director of Law and Democracy until the appointed time for their opening.

17.6 *No tenders received / submitted after the specified date and time for their receipt shall be considered.*

8. The following sections have been updated in **Section 18. Opening of Tenders, Quotations or Framework Bids** to improve clarity.

18.1 *Tenders (and Framework Bids valued in excess of the tender threshold) for a particular contract shall be opened at one time and only in the presence of a member of the Council and the Director of Law and Democracy or any officer designated by him. The Director of Law and Democracy shall keep a Register of Tenders opened. The Register of Tenders shall include the names, value and the date and time of opening.*

18.2 *The Member and officer in whose presence tenders are opened shall initial the Register, and any summary page of the tender.*

18.3 *Quotations for a particular contract shall be opened at one time and in the presence of at least two authorised Officers*

18.3 *Officers who have been involved in preparing an in-house bid for a particular contract, must not be involved in the recording or opening of tenders or quotations in respect of that contract.*

9. The following sections have been updated in **Section 20. Evaluation of Tenders or Quotations** to improve clarity.

20.1 *Evaluation criteria shall be determined in advance of the procurement and set out in descending order of importance, indicating evaluation weightings in the Invitation to tender documentation.*

20.2 *Selection and award criteria must be clearly distinguished and highlighted as part of the tender documentation. In addition, the criteria shall be strictly observed (and remain unchanged) at all times throughout the procurement procedure.*

20.2 *Tenders subject to the EU Regulations shall be evaluated strictly in accordance with the relevant EU Regulations and the evaluation criteria set out in the Invitation to Tender.*

10. The following sections have been updated in **Section 22. Acceptance of Tenders or Quotations** to improve clarity.

22.1 *A Chief Officer may accept a tender or quotation or framework bid on the basis of the offer, which he considers, is the most economically advantageous to the Council or offers the lowest price.*

- 22.2 *The decision to accept a tender (or framework bid valued in excess of the tender threshold) must be recorded on a Decision in Consultation with Cabinet Member form. This form should give details of the reasons why tenders, if any, were disqualified and the reasons for the selection of Contractor(s).*
- 22.3 *The decision to accept a Quotation will be recorded on a Quotation register in a form approved by the Corporate Director of Resources (which shall include the Councils' electronic procurement system)*
- 22.3 *Before accepting any tender, or quotation, the appropriate Chief Officer must be satisfied that there is sufficient provision in the relevant revenue or capital budget.*
- 22.4 *Letters of Intent and or Interim Agreements may only be used in exceptional circumstances and written authorisation must first be obtained from the Director of Law and Democracy. Where a Letter of Intent or Interim Agreement is used and where the terms and conditions of any contract are not fully agreed then no Contractor shall be allowed to commence delivery of goods, works or services until an adequate risk assessment has been carried out by the relevant Chief Officer as to the possible implications to the Council by the Contractor being allowed to commence work before the contract has been finalised.*
- 22.5 *A register of all contracts entered into by the Council shall be kept and maintained by the Corporate Director of Resources and the Director of Law and Democracy. Such a register shall for each contract, specify the name of the contractor, the works to be executed or the goods or services to be supplied and the contract value.*

11. The following sections have been updated in **Section 25. Contract Terms and Conditions** to improve clarity and to reflect the introduction of the Bribery Act 2010.

25.3 Bribery and Corruption

25.3.1 Every written contract shall include a clause (approved by the Director of Law and Democracy) which gives the Council the right to immediately terminate the contract if the contractor, or any of its employees or agents, commits an offence under the Bribery Act 2010.

25.4 Prohibition against Assignment or Novation

25.4.1 Every written contract shall include a clause (approved by the Director of Law and Democracy) prohibiting the Third party from transferring, assigning sub-letting or novating directly or indirectly, to any person or persons, either the whole or any portion of the contract without the express written permission of the Council. This

prohibition shall not apply to sub-letting which may be customary to the trade concerned.

25.4.2 The relevant Chief Officer, Corporate Director of Resources and the Director of Law and Democracy shall be consulted and their views taken into account before any permission to assign is given pursuant to section 25.4.1

12. The following sections have been updated in **Section 30. Contract Variations/ Extensions** to improve clarity.

30.1 All Contract variations must be carried out within the scope of the original Contract. Contract variations that materially effect or change the scope of the original Contract are not allowed, unless authorised in accordance with Rule 30.2

30.2 Any variation or series of variations increasing the scope of a contract must be authorised by the Director of Law and Democracy and the Corporate Director of Resources prior to the services, works or supplies being ordered.

30.2 All Contract variations must be in writing and signed by both the Council and the Contractor except where different provisions as to the making of variations are prescribed within the Contract terms

30.3 A contract may be extended before the expiry date where the extension is made in accordance with any option to extend set out in the original contract with the approval of the applicable Chief Officer and the Corporate Director of Resources.

31.2 Where the contract terms do not include any express option to extend any decision to extend must be authorised by the Director of Law and Democracy and the Corporate Director of Resources prior to extension being agreed

31.3 Where the contract is extended or varied

a) the Contract Register must be updated

b) the Director of Law and Democracy must be instructed to issue the extension documentation or contract variation.

31.4 After the expiry of the term of a contract (including any completed extension) it may not be further extended.